

AMENDED IN SENATE JUNE 2, 2009

AMENDED IN SENATE MAY 5, 2009

AMENDED IN SENATE FEBRUARY 26, 2009

SENATE BILL

No. 12

Introduced by Senator Simitian

December 1, 2008

~~An act to amend Section 29735 of, and to add Section 29740.1 to, the Public Resources Code, and~~ *An act* to add Division 26.8 (commencing with Section 79850) to the Water Code, relating to the Sacramento-San Joaquin Delta.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, Simitian. Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2009.

(1) Existing law requires various state agencies to administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta. The Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 creates the Delta Protection Commission and requires the commission to prepare and adopt a comprehensive long-term resource management plan for specified lands within the Sacramento-San Joaquin Delta.

This bill would enact the Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2009. The bill would establish the Delta Ecosystem and Water Council *to advance the coequal goals of restoring the Delta ecosystem and creating a more reliable water supply in California*. The council would be required to prepare and adopt a plan referred to as the

California Delta Ecosystem and Water Plan (plan) to advance the coequal goals of restoring the Delta ecosystem and creating a more reliable water supply in California. The council would be required to establish a goal for the adoption of the plan by December 1, 2010. If the plan is not completed by that date, the council would be required to adopt an interim strategic plan. The plan would be required to include specified components, including species protection requirements, Delta water flow and water quality requirements, and information relating to land use in the Delta carry out the requirements of the act.

The council would have the exclusive authority to determine the consistency of any project proposed or approved by a state agency or local government with the plan, and would be required to assume responsibility for any conservation or habitat management plan developed for the Delta, ensure that federal and state actions are consistent with the plan, receive and allocate funds to advance policies and programs related to the Delta, establish policies and procedures that ensure that the operations of water export systems are consistent with the plan, and take other action on behalf of the Delta. By authorizing the council to impose requirements on projects undertaken by local governments, the bill would impose a state-mandated local program.

The council would be required to establish a goal for the adoption of the plan by December 1, 2010. If the plan is not completed by that date, the council would be required to adopt an interim strategic plan.

The bill would authorize the council to impose a per-acre-foot fee on water diversions within the Delta watershed and a fee on any water conveyed through or around the Delta. The moneys generated by the imposition of the fee would be required to be deposited in the Delta Ecosystem and Water Fund, which would be established in the State Treasury. The moneys in the fund, upon appropriation by the Legislature to the council, would be required to be expended by the council for the exclusive purpose of carrying out the bill's provisions bill would provide that revenues generated from those fees, or from similar fee revenues collected by another state agency, shall be available, upon appropriation, to fund activities authorized by the act.

The bill would establish the California Delta Conservancy to implement the ecosystem restoration elements of the plan. The bill would establish the Delta Science and Engineering Board to carry out a Delta science and engineering program under the direction of the council.

~~The bill would revise the membership of the Delta Protection Commission to include one of the members of the Central Valley Flood Protection Board, or that member's sole designee. The bill would require the commission to extend invitations to specified federal agencies to participate in the activities of the commission in a nonvoting capacity. The bill would require the commission to revise its resource management plan to be consistent with the plan required to be adopted by the council. The bill would require each Delta county, as defined, and each city within a Delta county, to submit to the commission for review proposed amendments to make its general plan consistent with the commission's revised resource management plan. By imposing requirements on those counties and cities with regard to the preparation of their general plans, the bill would impose a state-mandated local program. The bill would establish a permit process for projects, as defined, requiring the commission to review and determine whether any project proposed to be carried out or approved by a local government within the primary zone is consistent with both the commission's revised resource management plan and the plan, and requiring the commission, until a Delta county or a city within a Delta county in which a project is located has adopted general plan amendments to make the general plan consistent with the commission's revised resource management plan, to review and determine whether any project proposed to be carried out or approved by a local government within the secondary zone is consistent with both the commission's revised resource management plan and the plan. The bill would make any person who undertakes a development project within the commission's jurisdiction without securing a permit from the commission guilty of a misdemeanor, thereby imposing a state-mandated local program by creating a new crime. The council would be authorized to review the general plans of those counties and cities, and to review development projects in the primary and secondary zones for consistency with the plan adopted by the council.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs~~

~~so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Division 26.8 (commencing with Section 79850)*
2 *is added to the Water Code, to read:*

3
4 *DIVISION 26.8. SACRAMENTO-SAN JOAQUIN RIVER*
5 *DELTA, CLEAN DRINKING WATER, WATER SUPPLY*
6 *SECURITY, AND ENVIRONMENTAL IMPROVEMENT ACT OF*
7 *2009*

8
9 *CHAPTER 1. GENERAL PROVISIONS*

10
11 *79850. This division shall be known and may be cited as the*
12 *Sacramento-San Joaquin River Delta, Clean Drinking Water,*
13 *Water Supply Security, and Environmental Improvement Act of*
14 *2009.*

15
16 *CHAPTER 2. DELTA ECOSYSTEM RESTORATION AND WATER*
17 *SUPPLY RELIABILITY*

18
19 *79855. The Legislature finds and declares all of the following:*
20 *(a) The coequal goals of restoring the Delta ecosystem and*
21 *creating a more reliable water supply in California are the*
22 *foundation of water and ecosystem policymaking.*

23 *(b) All state agencies with significant responsibilities relating*
24 *to the Delta should implement their statutory duties in a manner*
25 *that advances these coequal goals.*

1 (c) All water project operational agreements, contracts for
2 water use, water right permits, and financial agreements that
3 impact the Delta should reflect and promote these coequal goals.

4
5 CHAPTER 3. DELTA ECOSYSTEM AND WATER COUNCIL
6

7 79860. (a) The Delta Ecosystem and Water Council is hereby
8 established to advance the coequal goals of restoring the Delta
9 ecosystem and creating a more reliable water supply in California.

10 (b) The board of directors of the council shall consist of seven
11 members, appointed as follows:

12 ____.

13
14 CHAPTER 4. MISSION, DUTIES, AND RESPONSIBILITIES OF THE
15 DELTA ECOSYSTEM AND WATER COUNCIL
16

17 79870. (a) The council shall prepare and adopt a plan referred
18 to as the California Delta Ecosystem and Water Plan that
19 incorporates the plans of other agencies, as appropriate, to carry
20 out the requirements of this division.

21 (b) The council shall have exclusive authority to determine the
22 consistency of any project proposed or approved by a state agency
23 or local government with the plan adopted pursuant to this division.

24 79871. (a) The council shall prepare on or before August 1,
25 2010, a schedule for preparing and adopting the plan.

26 (b) The council shall establish a goal for the adoption of the
27 plan by December 1, 2010.

28 (c) If the plan is not adopted by December 1, 2010, the council
29 shall adopt an interim strategic plan.

30
31 CHAPTER 5. DELTA ECOSYSTEM AND WATER PLAN
32

33 79880. (a) The plan shall be prepared in order to achieve the
34 coequal goals of the Delta Vision. The plan shall build upon other
35 plans, modifying and extending those plans as needed to meet the
36 requirements of this division. Those other plans include, but are
37 not limited to, the ecosystem restoration program being developed
38 by the Department of Fish and Game, the land use and resource
39 management plan developed by the Delta Protection Commission,
40 any local habitat conservation plan within the Delta, the Suisun

1 *Marsh plan under development, the provisions of the California*
2 *Water Plan that address reliable water supply being developed by*
3 *the department, and the conservation program resulting from the*
4 *Bay Delta Conservation Plan.*

5 *(b) Those persons responsible for implementing the plans*
6 *described in subdivision (a) shall do so in a manner that is*
7 *consistent with the plan adopted pursuant to this division.*

8
9 *CHAPTER 6. FUNDING*

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11 *79885. The council may impose a per-acre-foot fee on water*
12 *diversions within the Delta watershed, and a fee on any water*
13 *conveyed through or around the Delta. The revenues generated*
14 *from fees imposed pursuant to this section, or from similar fee*
15 *revenues collected by another state agency, shall be available,*
16 *upon appropriation, to fund the activities authorized in this*
17 *division.*

18
19 *CHAPTER 7. THE DELTA SCIENCE AND ENGINEERING BOARD*
20 *AND THE DELTA SCIENCE AND ENGINEERING PROGRAM*

21
22 *79900. The Legislature finds and declares all of the following:*
23 *(a) California should maintain a strong and consistent*
24 *investment in science and engineering important to the Delta.*
25 *There needs to be a more direct link between scientific investigation*
26 *and real-world management and policy.*

27 *(b) To achieve this, the council requires both a permanent*
28 *science and engineering program staff and an independent science*
29 *and engineering board that reviews actions undertaken by the*
30 *council.*

31 *(c) The science and engineering program and the independent*
32 *science and engineering board should receive stable, adequate*
33 *funding.*

34 *(d) The science and engineering program should be a*
35 *replacement for, and a successor to, the successful CALFED*
36 *Independent Science Program, and a newly constituted independent*
37 *science and engineering board should replace the CALFED*
38 *Independent Science Board.*

39 *SEC. 2. If the Commission on State Mandates determines that*
40 *this act contains costs mandated by the state, reimbursement to*

1 *local agencies and school districts for those costs shall be made*
2 *pursuant to Part 7 (commencing with Section 17500) of Division*
3 *4 of Title 2 of the Government Code.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate May 5, 2009. (JR11)**

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